

OPINION  
68-94

April 18, 1968 (OPINION)

Mr. Ray H. Mattison, Superintendent

State Historical Society

RE: Historical Sites - Private Land - Permit

This is in reply to your letter with regard to issuance of permits or annual licenses to be issued for investigation, exploration, or excavation of any prehistoric or historic ruins, Indian Mounds, graves or villages, or other sites for archaeological or paleontological material on lands in North Dakota, pursuant to chapter 55-03 of the 1967 Supplement to the North Dakota Century Code.

You call our attention to the exception contained in section 55-03-05 of the 1967 Supplement to the North Dakota Century Code. This statute provides:

"LANDOWNER MAY EXPLORE ON HIS OWN LAND. Nothing contained in this chapter shall be construed to limit or prohibit any person owning land in this state from exploring or excavating for archaeological or paleontological material on his own land or by written consent to any other person."

Your specific question is states as: "Is it necessary for an individual to obtain a permit from the Superintendent of the State Historical Society to excavate on private land if he has the written permission of the landowner?"

It is our opinion that this question must be answered in the negative.

HELGI JOHANNESON

Attorney General